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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 MICHAEL A. BURNHART,
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10 Plaintiff,

11 v.
12 Defendant.

13 CASE NO. C08-5204RJB-KLS
14
15 ORDER DISMISSING CASE

16 DEPARTMENT OF CORRECTION
17 ELDON VAIL,

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28 This matter comes before the court on the Report and Recommendation of the Honorable
Karen L. Strombom, United States Magistrate Judge. Dkt. 8. The court has reviewed the
relevant documents and the remainder of the file herein.

On April 8, 2008, plaintiff filed a proposed civil rights complaint. Dkt. 4. Magistrate
Judge Strombom issued an order to show cause on April 8, 2008, in which the court refused to
serve plaintiff's complaint because of the complaint's procedural deficiencies. Dkt. 5. In the
order to show cause, the court directed plaintiff to file an amended complaint, curing, if possible,
the noted deficiencies, or to show cause why the complaint should not be dismissed by May 8,
2008. Dkt. 5.

On May 2, 2008, plaintiff filed a motion for extension of time to amend his complaint.
Dkt. 6. On May 13, 2008, Magistrate Judge Strombom issued an order granting plaintiff's
motion to extend time, in which plaintiff was directed to respond to the order to show cause by no
later than June 12, 2008. Dkt. 7.

On July 8, 2008, Magistrate Judge Strombom filed a Report and Recommendation
recommending dismissal of Plaintiff's complaint for failure to respond to the Court's order to

1 show cause and cure the deficiencies of his proposed complaint. Dkt. 8. On July 11, 2008, the
2 Report and Recommendation was returned by the Post Office to the Clerk's office, with the
3 notation "Not here." Dkt. 9.

4 Under Local Rule CR 41(b)(2):

5 A party proceeding pro se shall keep the court and opposing parties advised as to
6 his current address. If mail directed to a pro se plaintiff by the clerk is returned by
7 Post Office, and if such plaintiff fails to notify the court and opposing parties
within 60 days thereafter of his current address, the court may dismiss the action
without prejudice for failure to prosecute.

8 Plaintiff is proceeding *pro se* in this matter. Correspondence directed from the Clerk's
9 office was returned by the Post Office as undeliverable. More than sixty days have passed since
10 the Clerk's office received the returned mail, during which time plaintiff did not advise the court
11 of his current address. Pursuant to Local Rule CR 41(b)(2), this action should be dismissed
12 without prejudice for failure to prosecute.

13 Therefore, it is hereby

14 **ORDERED** that this action is **DISMISSED WITHOUT PREJUDICE** pursuant to
15 Local Rule CR 41(b)(2). The Report and Recommendation (Dkt. 8) is moot.

16 The Clerk is directed to send uncertified copies of this Order to all counsel of record and
17 to any party appearing *pro se* at said party's last known address.

18 DATED this 24th day of September, 2008.

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23 Robert J Bryan
24 United States District Judge
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ORDER - 3